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ALEXANDER L. STEVENS,  
CLERK

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1984

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NATIONAL LABOR RELATIONS BOARD,

*Petitioner,*

v.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,  
AFL-CIO, *et al.*,

*Respondents.*

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**OBJECTION TO BRIEF AMICUS CURIAE  
PROFFERED BY DELTA STEAMSHIP LINES, INC.**

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**OBJECTION TO BRIEF *AMICUS CURIAE*  
PROFFERED BY DELTA STEAMSHIP LINES, INC.**

The motion of Delta Steamship Lines, Inc. for leave to file a brief *amicus curiae* is totally devoid of merit. Not only does Delta fail to comply with Sup. Ct. R. 36.3, it makes no pretense of even trying to satisfy that rule's requirements for *amicus* status. Delta asserts no interest in the case now before the Court. Its proposed brief deals with issues admittedly foreign to the disposition of this case. Nowhere in Delta's motion or in its proposed brief is there a single nexus which would warrant Delta's intrusion into this case.

Rule 36.3 requires an applicant for *amicus* status to state its interest in the case and the facts or questions of law relevant to the disposition of the case which will not be adequately presented by the parties. Sup. Ct. R. 34.1(a) confines an *amicus* brief to the issues presented in the petition for certiorari. Any *amicus* argument not presented or passed on by the tribunals below nor advanced by any party before this Court will not be entertained. *United*

*Parcel Service, Inc. v. Mitchell*, 451 U.S. 56, 60 n.2 (1981); *Bell v. Wolfish*, 441 U.S. 520, 531 n.13 (1979); *Knetsch v. United States*, 364 U.S. 361, 370 (1960).

By its own admission, Delta's interest is not in this lawsuit but in another now pending in the Southern District of New York. *See* Delta's Motion at 1-2; Delta's Brief at 1-2. By its own admission, the issues in that other litigation, which Delta addresses in its proposed brief, are unrelated to the questions before this Court and were "not envisioned" by the court of appeals below. *See* Delta's Brief at 2. Those issues concern contractual provisions never challenged in the unfair labor practice proceedings underlying this case. In fact, they concern a contract which did not come into existence until after this case was argued in the court of appeals. *See* Appendix to Delta's Brief.

Delta's attempt to interject those issues into this case is an unwarranted imposition upon the Court and the parties. Delta's entire proposed brief is devoted to questions that were before neither the court of appeals nor the National Labor Relations Board. Indeed, these issues have never even been mentioned in the 15 years of multi-circuit litigation involving the Rules on Containers, which culminated in the case now before this Court. Delta unabashedly seeks to insinuate this Court into the other unrelated litigation. Delta's suggestion that the lower courts would be misled by some "unintended signal" from this Court is not complimentary to the federal judiciary. *See* Delta's Brief at 8.

Delta's attempted intrusion into this case to obtain what is tantamount to an advisory opinion in another case not yet decided by any tribunal should not be countenanced. Delta's application should be denied, and its proposed *amicus* brief rejected and returned.

To discourage future flouting of the *amicus* rules of this Court, sanctions should be imposed against Delta in the

form of an award of costs and attorneys' fees to Respondents to recompense them for the needless effort and expense of answering a frivolous application that should never have been made.

Dated: New York, New York  
March 13, 1985

Respectfully submitted,

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